

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TRANDOSE MURPHY,

Petitioner,

Case No. 12-cv-13720

Hon. Matthew F. Leitman

v.

DEBRA SCUTT,

Respondent.

**ORDER DIRECTING THE CLERK OF THE COURT TO TRANSFER THE
MOTION FOR A CERTIFICATE OF APPEALABILITY (ECF #19) AND
APPLICATION TO PROCEED *IN FORMA PAUPERIS* ON APPEAL
(ECF #18) TO THE UNITED STATES COURT OF APPEALS FOR THE
SIXTH CIRCUIT**

On October 23, 2014, this Court denied Petitioner Trandose Murphy's application for a writ of habeas corpus. (*See* the "Opinion and Order," ECF #14.) The Court also declined to issue a certificate of appealability or to grant leave to appeal *in forma pauperis*. (*See id.*) On November 10, 2014, Petitioner filed a notice of appeal. (*See* ECF #16.) Thereafter, Petitioner filed (1) a motion for a certificate of appealability (*see* ECF #19), and (2) an application to proceed *in forma pauperis* on appeal (*see* ECF #18).

The proper procedure when a district court denies a certificate of appealability is for the petitioner to file a motion for a certificate of appealability before the appellate court in the appeal from the judgment denying the petition for writ of habeas corpus. *See Sims v. United States*, 244 F.3d 509 (6th Cir. 2001) (citing Fed. R. App.

P. 22(b) (1)). In light of the fact that this Court has already denied Petitioner a certificate of appealability, Petitioner should direct his request for a certificate of appealability to the Sixth Circuit. The Court, in the interests of justice, will order that petitioner's motion for a certificate of appealability to be transferred to the United States Court of Appeals for the Sixth Circuit.

The Court will also order the Clerk of the Court to transfer Petitioner's application to proceed *in forma pauperis* on appeal to the Sixth Circuit. Because jurisdiction of this action was transferred from the district court to the Sixth Circuit upon the filing of the notice of appeal, Petitioner's motion to proceed *in forma pauperis* on appeal would be more appropriately addressed to the Sixth Circuit.

Accordingly, **IT IS ORDERED** that the Clerk of the Court transfer Petitioner's motion for a certificate of appealability (ECF #19) and Petitioner's application to proceed *in forma pauperis* (ECF #18) to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 1631.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: December 16, 2014

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 16, 2014, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(313) 234-5113